

ORDER SHEET

ITAT No. 224 of 2013
G.A. No.3816 of 2013
G.A. No. 3817 of 2013
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX, KOLKATA-I
Versus
M/s. FAIRLAND DEVELOPMENT PVT LTD

BEFORE:

The Hon'ble JUSTICE GIRISH CHANDRA GUPTA

The Hon'ble JUSTICE SUDIP AHLUWALIA

Date : 9th April, 2014.

Ms M. Bhargava, Advocate for the Appellant
Mr.R. Bharadwaj, Advocate for the Respondent

The Court : Considering the grounds stated in the application for condonation of delay, the same is allowed and disposed of.

The revenue has come up in appeal challenging the order dated 18th June, 2013 passed by the Appellate Tribunal by which the appeal preferred by the revenue against the order of CIT (Appeal) was dismissed and the cross objection filed by the assessee was allowed.

From the order of the CIT, it appears that he had deleted the addition made by the Assessing Officer on the ground that the expenditure incurred by the

assessee in purchasing land was not shown as a business expenditure. There was, as such no reason to disallow the same. The assessee had, in fact, also indicated that the amount spent in purchasing the land was shown as the amount involved in work in progress.

An expenditure of a sum of Rs.32,948/- and a sum of Rs.4,10,719/- disallowed by the Assessing Officer was directed by CIT to be reverified. The order passed by the Assessing Officer disallowing expenditure of a sum of Rs.50,000/-, Rs.32,843/-, Rs.4,450/- and Rs.90,000/- were upheld by the CIT.

The learned Tribunal dismissed the appeal preferred by the revenue agreeing with the findings of the CIT (Appeal) that the assessee had not claimed any deduction of the sum of Rs.42,36,000/- invested in purchasing the land. There was, as such, no reason why the aforesaid addition was made by the assessee. The cross objection filed by the assessee was, however wrongly allowed by the learned Tribunal on the ground that no expenditure had really been claimed with respect to the amounts disallowed by the Assessing Officer. When an expenditure of a revenue nature was incurred and shown as work in progress, it could not be said that the provisions of section 40(a)(ia) were not attracted.

Considering the facts and circumstances of the case, we are of the opinion that the appeal preferred by the revenue was correctly dismissed but the cross objection preferred by the assessee could not have been allowed. Therefore, the order to that extent is set aside and the order of the CIT (Appeal) is restored.

(GIRISH CHANDRA GUPTA, J.)

(SUDIP AHLUWALIA, J.)

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